

Mayor Mary Cooper called the meeting to order at 7:00 p.m. Also present were Councilmembers Ed Sisson, Robert Jurca, and Guy Pfalzgraff, along with City Manager Joe Kerby and City Attorney Mike Schottelkotte. Absent was Councilmember Bill Seuell. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

Pledge of Allegiance

The Mayor led everyone present in the Pledge of Allegiance.

Changes to the Agenda

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Sisson to remove Council Bill #3, 2010. All in favor, motion carried.

City Manager Joe Kerby presented the following changes:

- Remove Item K, Council Bill #2, 2010; due to publication requirements not met.

Minutes

It was moved by Councilmember Jurca and seconded by Councilmember Sisson to approve the minutes of July 6, 2010 regular meeting as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

There were none.

City Manager Joe Kerby stated that there may be a special meeting next week regarding Council Bill #3, 2010.

Financial Report

Finance Director Tod DeZeeuw presented the financial report for period ending June 30, 2010 and answered questions from Council.

Assistant Utilities Director Steve Glammeyer stated that DOLA is accepting grant applications for the August cycle. Mr. Glammeyer also stated that there are a couple of projects that are upcoming and staff is discussing which of those projects they will apply for grants.

Public Hearing: Revocation of Sales & Use Tax License; Wingz N Things

The Mayor closed the regular meeting and convened a public hearing.

Melvin Newton, 326 Main Street, owner of Wingz n Things requested that his sales and use tax license not be revoked at this time. He also stated business has been difficult due to a robbery recently. He also stated that business is picking up; however, he does not have the money right now.

City Manager Joe Kerby requested the Finance Director to present a background regarding this license.

Finance Director Tod DeZeeuw reported that this is a hearing to determine if Wingz and Things' license should be revoked. This is the standard procedure per the City's ordinances. He stated that staff sent them several letters regarding this license and received no response. Currently they are four months behind. Mr. DeZeeuw also stated that there have been other challenges with this business.

Mr. Kerby asked Mr. DeZeeuw to explain the process if Council were to revoke the license.

Mr. DeZeeuw stated that generally they would cease and desist the business until they pay the taxes. The State may also get involved. Once they are clear with the City and the State then they can be reopened. He also stated that Council could also do a distraint warrant where the City would be able to sell the contents of the business. He explained that the building is rented so they would not pursue that.

Regular Meeting, Delta City Council, July 20, 2010 (Cont.)

Public Hearing (cont.)

Mayor Cooper questioned what amount is due.

Mr. DeZeeuw stated that they only have an estimate.

City Attorney Michael Schottelkotte questioned what is available as security for payment of the taxes.

Mr. DeZeeuw reported that they have no information on this business.

Mr. Newton stated that he realizes that he is four months behind. There have been other struggles regarding employee theft and the robbery recently which involved not only money but a lot of food.

Mayor Cooper questioned Mr. Newton as to why there was no response to the letters.

Mr. Newton stated that he only received one letter from the City regarding this.

Mayor Cooper asked if he has paid any sales tax.

Mr. Newton stated that he has not paid anything. He also stated that he planned on paying the sales tax with the monies that were stolen.

Councilmember Pfalzgraff questioned when he could pay it.

Mr. Newton reported that he could possibly pay it in a month and a half.

Councilmember Jurca questioned if the City has the authority to grant him some time to pay this with the fact that he is already four months behind.

Mr. Schottelkotte stated that Council can set any conditions or requirements they feel appropriate.

Councilmember Pfalzgraff stated that his concern is that he is currently four months behind. He is not inclined to continue until what is owed to the City is paid.

Mayor Cooper commented on the fact that the City has not received any payments.

Mr. Newton stated that this is not the only issue. He reported that he has paid over \$10,000 in utilities to the City.

Mr. DeZeeuw reported that the utilities bills have not been that amount.

Sharon Douglas, 326 Main Street, questioned if the City revokes the license how do you expect them to pay without having any income. If the City would give them some time to generate some income this would give them a chance to pay the amount that is due.

Kay Newton, 326 Main, stated that she has been there every day working without getting paid for the work. She also stated that if the City revokes the license they will not be able to pay the amount due. She question if the City would consider setting up a payment plan.

The Mayor called for public comment and when there was none she closed the public hearing and reconvened the regular meeting.

Councilmember Jurca stated that he is not inclined to set up a payment plan unless a lump sum is paid up front.

Councilmember Pfalzgraff agreed. He stated that his concern is that it is getting close to the end of July and there seems to be no end to the cycle that is going on. As long as the City continues to not collect the appropriate income as the City is required to have, he doesn't see how Council could allow them to continue to do business.

Councilmember Jurca questioned if there is any ability for the business to pay anything.

Regular Meeting, Delta City Council, July 20, 2010 (Cont.)

Public Hearing (cont.)

Mr. Newton stated that he is not able to at this time explaining the struggles they have been dealing with. He also stated that from this point forward he will respond to any letters he receives.

Councilmember Sisson asked if Mr. Newton has a date he can make the payment by.

Mr. Newton stated one month from today.

Councilmember Pfalzgraff stated that he would be inclined to having the amount due currently be paid by the end of July and if not paid by then suspend or revoke the license.

Mr. Newton reported that he could work with that.

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Sisson that the revocation of the sales and use tax license for Wingz and Things occur on July 30, 2010 subject to nonpayment of all taxes and all other payments due to the City; unless all payments are received by that date. All in favor, motion carried.

Public Hearing: Special Events Permit Application; Delta Elks Lodge #1235

The Mayor closed the regular meeting and convened a public hearing.

The clerk explained that the Delta Elks Lodge has submitted a special events permit application for the grand opening of the new elevator. She also explained that the Delta Elks Lodge is required to submit this application due to the fact the event is open to the public and their current license is only for club members. She stated that the application is complete and all fees have been paid. She also stated that the posting requirements were met as required by law.

The Mayor called for public comment and when there was none she closed the public hearing and reconvened the regular meeting.

It was moved by Councilmember Sisson and seconded by Councilmember Pfalzgraff approve the Delta Elks Lodge #1235 application for a special events liquor permit for August 21, 2010. All in favor, motion carried.

Medical Marijuana “Opt Out” Provisions

City Manager Joe Kerby reported that recently there has been legislation that allows municipalities to “opt out” on medical marijuana centers. A few weeks ago this was brought to Council with the recommendation to refer this to the voters and put this on the November ballot. At that time there was a consensus to pursue that option. Over that the last few weeks there has been discussions that possible Council may want to reconsider that decision. He stated that he has made personal contact with both of the dispensaries within the City and at least one of them is here tonight. Mr. Kerby stated that at this time he is asking Council if they want to continue with referring this item to the voters or take under consideration at a subsequent meeting. At that time Council could hold a public hearing to hear testimony and then have give direction.

City Attorney Michael Schottelkotte presented information regarding HB10-1284. He explained Council’s options regarding Medical Marijuana Centers.

City Clerk Jolene Nelson reported on getting information from local communities on how they are proceeding. She presented the results from the election regarding medical marijuana care givers. She also presented the estimate of cost if Council were to continue with referring the question to the voters.

Mayor Cooper stated that tonight Council needs to decide whether to take the question to the vote of the people or not.

Councilmember Pfalzgraff commented on the cost of taking this to the voters. He suggested not taking this to a vote of the people.

Regular Meeting, Delta City Council, July 20, 2010 (Cont.)

Medical Marijuana “Opt Out” Provisions (cont.)

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Sisson that the City does not refer a ballot question regarding the Medical Marijuana Opt Out option to the voters at the November 2010 election. All in favor, motion carried.

Mr. Kerby questioned Council on how they wish to proceed.

Councilmember Pfalzgraff stated that he would like to see a public hearing.

There was discussion regarding the public hearing.

Mayor Cooper questioned the owner of Natural Green Solutions what the State is requiring them to do at this time.

John Thomas, 128 Main Street, owner of Natural Green Solutions presented a summary of the requirements that the State has to allow him to continue business.

There was discussion on the time frame and requirements for submitting an application for dispensaries with the State.

Ron Bain with the Western Slope Watchdog questioned the City Attorney if grand fathering is a court precedent rather than a legislative priority.

Mr. Schottelkotte stated that grand fathering applies in a narrow sense to zoning issues, not because you were here at a particular time.

3.2 % Beer License Renewal: Pizza Hut

The Clerk explained that Pizza Hut has submitted their 3.2% Beer renewal application. She reported that the application is complete and all fees have been paid. The Police Department has recommended renewal.

It was moved by Councilmember Jurca and seconded by Councilmember Sisson to approve the 3.2% Beer License Renewal for Pizza Hut. All in favor, motion carried.

City Attorney Comments

City Attorney Michael Schottelkotte reported that the appeal from Municipal Court was tried and the Defendant was again found guilty of the charges.

City Manager Comments

City Manager Joe Kerby commented on the Golf Course and how other courses are doing in the area. He stated that staff is looking at cutting expenses, sharing resources and advertising. He presented a summary of some of the things that have already been implemented.

Mr. Kerby also presented the following updates:

- Reminded everyone of the public meeting tomorrow night discussion the Recreation Center expansion.
- The Parks Department has received an additional two inmates.
- Staff will be spending Thursday and Friday preparing a draft budget reflecting if the ballot initiatives were to pass.

Councilmember Comments

Councilmember Pfalzgraff stated that it is getting close to budget time again. He recommended beginning to prepare for the budget process including preparing to have a budget in place if the ballot initiatives were to pass.

Mr. Kerby reported that staff will be discussing budgets for both scenarios.

Councilmember Sisson commented on Deltarado Days.

Mayor Cooper also commented on Deltarado Days and the CAMU conference. She also reported that she is getting comments on how wonderful the flowers look.

Regular Meeting, Delta City Council, July 20, 2010 (Cont.)

The meeting was adjourned at 8:14 p.m.

Jolene E. Nelson, City Clerk